



CHAPTER 38

An Act to again amend the Taxation Act and to
amend other legislation

[Assented to 22 June 1979]

HER MAJESTY, with the advice and consent of the Assemblée
nationale du Québec, enacts as follows:

1972, c. 23,
s. 1, am.

1. (1) Section 1 of the Taxation Act (1972, chapter 23), amended by section 31 of chapter 26 of the statutes of 1972, section 1 of chapters 17 and 18 of the statutes of 1973, section 1 of chapters 21 and 22 of the statutes of 1975, section 1 of chapter 26 of the statutes of 1977, section 1 of chapter 26 of the statutes of 1978 and by section 1 of chapter 18 of the statutes of 1979, is again amended by replacing the definition of the expression “establishment” by the following definition:

“establishment”;

“establishment” has the meaning assigned to it by sections 11a to 11f;”.

(2) This section applies to every taxation year commencing after the day this act is assented to.

1972, c. 23,
s. 2a,
added.

2. (1) The said act is amended by inserting, after section 2, the following section:

Ownership
of a prop-
erty inde-
terminate
owing to a
matri-
monial
regime.

“**2a.** In this act and the regulations, unless otherwise provided, where the ownership of a property is indeterminate owing to a matrimonial regime, the following rules apply:

(a) where the property was, immediately before the regime was entered into, the property of one of the spouses subject to the regime, it is deemed to remain the property of that spouse; and

(b) in other cases, the property is deemed to be the property of the spouse who administers it under the regime.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 11*f*,
added.

3. (1) The said act is amended by inserting, after section 11*e*, the following section:

Deemed
establishment.

“**11*f*.** Where, in a taxation year, a corporation not resident in Canada operates a mine, produces, processes, preserves, packs or builds goods or a product in whole or in part, or produces or presents a public show, it is deemed to have an establishment at the place, in Canada, where it carries on one or the other of these activities.”

(2) This section applies to every taxation year commencing after the day this act is assented to.

1972, c. 23,
s. 58*a*, am.

4. (1) Section 58*a* of the said act, enacted by section 8 of chapter 26 of the statutes of 1978, is amended by replacing the second paragraph by the following paragraph:

Lease of
an auto-
mobile.

“Moreover, he shall not deduct the amounts disbursed by him in the year for the lease of such an automobile, to the extent that these amounts exceed either the lesser of \$650 and one-fifth of the amount by which such cost exceeds that part of such cost which is reasonably attributable to the cost of insurance against loss or damage or of liability insurance in respect of that automobile, where such cost is incurred pursuant to a contract made after 18 April 1978, or one-fifth of the latter excess amount, in any other case.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 62, am.

5. Section 62 of the said act, amended by section 9 of chapter 26 of the statutes of 1978, is again amended by replacing paragraphs *d* and *e* by the following paragraphs:

“(*d*) annual dues to a parity committee where such payment is required by virtue of the Collective Agreement Decrees Act (Revised Statutes, 1964, chapter 143);

“(*e*) annual dues to the Office de la construction du Québec in accordance with the Construction Industry Labour Relations Act (1968, chapter 45); or

“(*f*) annual dues to an association of employees recognized by the Minister as one whose main objects are the study, safeguard and promotion of the economic interests of its members, provided, however, that the individual does not deduct any amount for the year under paragraphs *b* to *e*.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 65,
replaced.

6. (1) Section 65 of the said act, amended by section 1 of chapter 18 of the statutes of 1976, is replaced by the following section:

Maximum
allowable
deduction.

“65. The deduction allowed an individual under paragraph *c* of section 64 must not exceed,

(*a*) in respect of services the individual rendered in the year, the amounts his employer retains from his remuneration under the plan or that the individual pays under the plan as part of his dues for the year as a member of an association of employees within the meaning of the Labour Code, not exceeding \$5,500;

(*b*) in respect of services the individual rendered previous to the year, for the years while he was not a contributor under the plan, the amounts the individual pays in the year under the plan to the extent that such amounts are not deductible in the immediately preceding year under paragraph *c* of section 309, not exceeding the lesser of the following amounts:

i. \$5,500;

ii. that part of such amounts not in excess of the product obtained by multiplying \$5,500 by the number of such previous years, minus the amounts deducted under this paragraph in previous years; or

(*c*) in respect of services the individual rendered previous to the year, while he was a contributor under the plan, the amounts the individual pays in the year, not exceeding \$5,500, in respect of such previous years, to the extent that they are not deductible in the immediately preceding year under paragraph *c* of section 309, minus any amount deducted in the year under paragraphs *a* and *b*.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 66,
replaced.

7. (1) Section 66 of the said act, amended by section 2 of chapter 18 of the statutes of 1976, is replaced by the following section:

Maximum
allowable
deduction.

“66. The maximum of \$5,500 provided in paragraph *a*, *b* or *c* of section 65 applies, with regard to each of such paragraphs, to the aggregate of the contributions it contemplates, irrespective of the number of plans under which the employee contributed.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 122a,
am. **8.** Section 122a of the said act, enacted by section 34 of chapter 26 of the statutes of 1978, is amended by replacing the second paragraph by the following paragraph:

Lease of
an auto-
mobile.

“Moreover, he shall not deduct the amounts disbursed or paid by him in the year as the cost of the lease of such an automobile, an amount exceeding either the lesser of \$650 and one-fifth of the amount by which such cost exceeds that part of such cost which is reasonably attributable to the cost of insurance against loss or damage or of liability insurance in respect of that automobile, where such cost is incurred pursuant to a contract made after 18 April 1978, or one-fifth of the latter excess amount, in any other case.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 126, am. **9.** (1) Section 126 of the said act, amended by section 3 of chapter 18 of the statutes of 1976, is again amended by replacing the second and third paragraphs by the following paragraphs:

Computa-
tion of
deductible
amount.

“Where the amount paid is divided into parts each of which is in respect of an individual employee, the deductible amount for such employee shall be the lesser of the amount of such part and \$5,500.

Computa-
tion of
deductible
amount.

If such reference to an individual employee cannot be made, the deductible amount shall be the lesser of the amount so paid and the amount fixed in the manner prescribed, not exceeding the amount obtained by multiplying \$5,500 by the number of the taxpayer's employees in respect of whom the taxpayer has paid an amount.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 320, am. **10.** (1) Section 320 of the said act, amended by section 4 of chapter 18 of the statutes of 1976, is again amended by replacing the second paragraph by the following paragraph:

Restric-
tions.

“Such expenses shall not however include expenses incurred in the year for lodging at a boarding school or camp which exceed the total amount of \$45 per week for each child, or the medical expenses contemplated in sections 537 to 541 or other expenses for medical or hospital care, clothing, transport or education or for board or lodging other than those provided in this section.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 321,
replaced.

11. (1) Section 321 of the said act, amended by section 5 of chapter 18 of the statutes of 1976, is replaced by the following section:

Limit in
case of
woman.

“321. Where the individual is a woman, the expenses provided in section 320 must not exceed the least of \$6,000, two-thirds of her earned income in the year and the product obtained when \$2,000 is multiplied by the number of children in respect of whom such expenses are incurred.

Limit in
case of
wife.

However, where the individual is the wife described in paragraph *b* or *c* of section 323, the expenses provided in section 320 must not exceed the least of

(*a*) \$6,000, less the amount allowable under section 322 as a deduction in computing her spouse's income for the year;

(*b*) two-thirds of her earned income for the year; and

(*c*) the excess of the product obtained when \$2,000 is multiplied by the number of children in respect of whom such expenses are incurred over the amount allowable under section 322 as a deduction in computing her spouse's income for the year.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 322,
replaced.

12. (1) Section 322 of the said act, amended by section 12 of chapter 21 of the statutes of 1975 and by section 6 of chapter 18 of the statutes of 1976, is replaced by the following section:

Where
individual
is a man.

“322. Where the individual is a man, the expenses provided for in section 320 shall not exceed the least of

(*a*) the lesser of \$6,000 for the year and an amount equal to \$45 per week for each child in respect of whom such expenses are incurred up to \$180 per week, for each week in the year during which he was not married or was separated from his wife pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written agreement or during which his wife was a person described in paragraph *b* or *c* of section 323;

(*b*) two-thirds of his earned income for the year; and

(*c*) the product obtained when \$2,000 is multiplied by the number of children in respect of whom such expenses are incurred.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 354*f*, am.

13. (1) Section 354*f* of the said act, replaced by section 40 of chapter 26 of the statutes of 1977 and amended by section 69

of chapter 26 of the statutes of 1978, is again amended by replacing subparagraph i of paragraph a by the following subparagraph:

“i. the amount by which his Canadian exploration expenses incurred after 25 May 1976 and before 1980 exceed the aggregate of all amounts deducted under this paragraph for a previous taxation year, and”.

(2) This section applies with respect to a taxation year ending after 25 May 1976.

1972, c. 23,
s. 364a,
added.

14. (1) The said act is amended by inserting after section 364 the following section:

Partition
following
the disso-
lution of
matrimo-
nial regime
owing to
death.

“**364a.** For the purposes of determining the property referred to in section 362c, 362e, 363, 363a or 364 which belonged to an individual immediately before his death, when that property is subject to a partition following the dissolution, owing to that death, of the matrimonial regime to which that individual was then subject, only the property forming part of his patrimony once that partition is effected is to be taken into account.

Presump-
tion.

For the purposes of sections 370 and 371, that partition is deemed to be effected immediately before the death of the individual.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 370,
replaced.

15. (1) Section 370 of the said act is replaced by the following section:

Transfer
inter vivos
of property
to spouse,
former
spouse, or
trust.

“**370.** Where, after 1978, capital property of a taxpayer is transferred to a transferee contemplated in the second paragraph who, like him, is resident in Canada, the property is deemed to have been disposed of by the taxpayer and acquired by that transferee for an amount equal to the adjusted cost base of the property immediately before the transfer or, in the case of depreciable property, to the proportion of the undepreciated capital cost of all the property of the same class that the fair market value of such property, at that time, is of the fair market value of the aggregate of all the property of the same class at the same time.

“Trans-
feree”.

The transferee contemplated in the first paragraph is

(a) the spouse of the taxpayer;

(b) a trust created by the taxpayer, if the spouse of the taxpayer has, under the trust, the exclusive right to receive all the income during his lifetime, and to receive or otherwise

obtain during that period the use of any part of the income or of the capital of that trust;

(c) a former spouse of the taxpayer, if that transfer is made in settlement of rights arising out of their marriage; or

(d) an individual, if that transfer is made under a decree, order or judgment of a competent tribunal made in accordance with prescribed provisions of the law of a Canadian province and if that individual has entered into a written agreement with the taxpayer in accordance with those provisions or if that individual is a prescribed person under those provisions.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 371,
replaced.

16. (1) Section 371 of the said act, amended by section 35 of chapter 18 of the statutes of 1979, is replaced by the following section:

Deemed
capital
cost and
depre-
ciation by
spouse,
former
spouse or
trust.

“371. Where section 370 applies and the capital cost to the taxpayer of a depreciable property of a prescribed class exceeds the amount determined under that section, the following rules apply for the purposes of sections 82 to 93, 119 and 119*a* and of the regulations made under paragraph *a* of section 119 or section 119*a*:

(a) the capital cost of such capital property to the transferee is deemed to be the capital cost of such capital property to the taxpayer; and

(b) the excess is deemed to have been allowed to the transferee in respect of such capital property under the regulations made under paragraph *a* of section 119 in computing his income for the previous taxation years.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 371*a*,
added.

17. (1) The said act is amended by inserting after section 371 the following section:

Defini-
tions:
“spouse”
and “form-
er spouse”.

“371*a*. In this chapter, the words “spouse” and “former spouse” include a party to a void or voidable marriage, as the case may be.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 372*a*,
added.

18. (1) The said act is amended by inserting after section 372 the following section:

Deemed transfer owing to the dissolution of the matrimonial regime.

“372a. For the purposes of this chapter, where a property becomes the property of an individual following the declaratory effect of a partition following the dissolution of the matrimonial regime to which that individual was subject and where that individual was not the deemed owner of the property under section 2a immediately before that dissolution, that property is deemed to have been transferred to that individual by his spouse immediately before that dissolution.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23, s. 373a, added.

19. (1) The said act is amended by inserting after section 373 the following section:

Restrictions concerning the application of sections 372 and 373.

“373a. Sections 372 and 373 do not apply during the cessation of communal life of the persons contemplated therein

(a) where that cessation results from a decree, order or judgment of a competent tribunal or a written separation agreement; or

(b) from the date of the filing, with a competent tribunal, of a motion to obtain a decree, order or judgment to that effect, provided that such an instrument is issued by such a tribunal within a reasonable time.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23, s. 406a, am.

20. (1) Section 406a of the said act, enacted by section 116 of chapter 22 of the statutes of 1975, replaced by section 62 of chapter 26 of the statutes of 1977 and amended by section 94 of chapter 26 of the statutes of 1978, is again amended by replacing paragraph b by the following paragraph:

“(b) \$2,500.”

(2) This section applies to an election the final date for making which is after 6 May 1974.

1972, c. 23, Title IA and ss. 524b-524d, added.

21. (1) The said act is amended by inserting after section 524a the following title and sections:

“TITLE IA

“ANNUAL INDEXATION OF CERTAIN AMOUNTS

Annual indexation of certain amounts.

“524b. The following amounts must be indexed annually so that each of these amounts to be used for a taxation year becomes that obtained by adding to that amount the amount obtained by

multiplying, by the prescribed ratio for that year, the amount that would have been applicable for that year but for this section:

(a) the amounts of \$550, \$900, \$1,500, \$2,000, \$2,700 and \$3,600 referred to in section 525;

(b) the amount of \$1,500 referred to in sections 543 and 543*b*;

(c) the amount of \$3,600 referred to in sections 544*a* and 570;

(d) the amounts of \$2,550 and \$2,900 referred to in section 565.

Annual
indexation
of certain
amounts.

“524*c*. The amount of \$1,000 referred to in paragraphs *a* and *b* of section 525 must be modified annually so that the amount to be used for a taxation year is the amount by which

(a) the aggregate of \$100 and the amount of \$3,600 referred to in section 525 and indexed for the year in accordance with section 524*b*, exceeds

(b) the amount of \$2,700 referred to in section 525 and indexed for the year in accordance with section 524*b*.

Rounding
of
amounts.

“524*d*. Where an amount referred to in paragraphs *a* to *d* of section 524*b* is not a multiple of ten dollars when indexed in accordance with that section, it must be rounded to the nearest multiple of ten dollars or, if it is a multiple of five dollars, to the nearest higher multiple of ten dollars.”

(2) This section applies to the taxation year 1980 and subsequent taxation years.

1972, c. 23,
s. 531*a*,
replaced.

22. (1) Section 531*a* of the said act, enacted by section 18 of chapter 21 of the statutes of 1975 and replaced by section 195 of chapter 22 of the statutes of 1975 and section 80 of chapter 26 of the statutes of 1977, is again replaced by the following section:

Interest
and div-
idend
income
deductible
up to
\$1 000.

“531*a*. An individual other than a trust that is not a testamentary trust, within the meaning of section 509, may deduct, up to a maximum of \$1,000, the amount by which the aggregate of the interest included in computing his income and his grossed-up dividends exceeds, for the year, the aggregate of each amount deducted as interest in such computation.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 570, am.

23. (1) Section 570 of the said act, amended by section 210 of chapter 22 of the statutes of 1975, section 1 of chapter 17 of the statutes of 1976 and section 136 of chapter 26 of the statutes of 1978, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the income of an individual for any year referred to in section 567 is deemed to be not less than the aggregate of \$100 and the amount of \$3,600 referred to in section 525;”.

(2) This section applies to the taxation year 1980 and subsequent taxation years.

1972, c. 23,
s. 602, am.

24. Section 602 of the said act, amended by section 92 of chapter 17 of the statutes of 1973, is again amended by replacing that part which precedes paragraph *a* by the following:

Amounts
to be
withheld
from
payment to
customer.

“**602.** The taxpayer must withhold from any payment he makes as a patronage dividend to an individual an amount equal to 10 per cent of the lesser of the following two amounts:”.

1972, c. 23,
s. 662, am.

25. (1) Section 662 of the said act, amended by section 63 of chapter 26 of the statutes of 1972 and by section 14 of chapter 18 of the statutes of 1976, is again amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) \$5,500, minus the amount deductible in respect of such employee for the year under section 126; and”.

(2) This section applies to the taxation year 1979 and subsequent taxation years.

1972, c. 23,
s. 769
replaced.

26. (1) Section 769 of the said act is replaced by the following section:

Penalty
for failure
to file a
return.

“**769.** Every person who fails to make a fiscal return in the form prescribed and within the delays provided, in accordance with section 732, 733, 735 or 736, is liable to a penalty equal to the lesser of \$500 and five per cent of the tax unpaid at the time when such return must be filed.”

(2) This section applies in respect of a fiscal return the final date for filing which is after the date of the coming into force of this act.

1972, c. 23,
Part IV,
replaced.

27. (1) Part IV of the said act is replaced by the following:

"PART IV

"TAX ON CAPITAL

"BOOK I

"DEFINITIONS

- Definitions: **"843.** In this Part and in the regulations, unless the context indicates otherwise,
- "taxation year"; "taxation year" means a fiscal period within the meaning assigned by Part I;
- "bank"; "bank" means a bank to which the Bank Act (Statutes of Canada) or the Québec Savings Banks Act (Statutes of Canada) applies;
- "corporation"; "corporation" means a corporation within the meaning assigned to it by section 1;
- "business"; "business" means a business within the meaning assigned to it by section 1;
- "establishment"; "establishment" means an establishment within the meaning assigned to it by section 1;
- "Minister"; "Minister" means the Ministre du revenu;
- "prescribed"; "prescribed" means prescribed within the meaning assigned by section 1;
- "regulation"; "regulation" means a regulation made by the Government under this Part;
- "gross revenue"; "gross revenue" means the gross revenue within the meaning assigned to it by section 1;
- "surplus". "surplus" means the surpluses of a corporation and includes any amount by which any property has been valued in excess of its cost.

"BOOK II

"LIABILITY FOR AND AMOUNT OF THE TAX

- Liability for tax. **"844.** Any corporation having an establishment in Québec at any time in a taxation year must pay, in respect of that year, a tax on its paid-up capital shown in the books and financial statements submitted to the shareholders for that taxation year.
- Tax payable. **"845.** The tax payable by a corporation in respect of each taxation year is equal,

Banks,
loan cor-
porations
and trust
corpora-
tions;
Mining
corpora-
tions hav-
ing not
reached
production
stage;
Other cor-
porations.

(a) in the case of a bank, loan corporation or trust corpora-
tion, to three-fifths of one per cent of its paid-up capital;

(b) in the case of a mining corporation which has not reached
the production stage, to \$100;

(c) in the case of any other corporation, except an insurance
corporation within the meaning assigned to it by the Act re-
specting insurance (1974, chapter 70), a savings and credit union
within the meaning of section 605 and a cooperative association,
a cooperative syndicate or a cooperative agricultural association
governed by the Cooperative Associations Act (Revised Statutes,
1964, chapter 292), by the Cooperative Syndicates Act (Revised
Statutes, 1964 chapter 294) or by the Cooperative Agricultural
Associations Act (Revised Statutes, 1964, chapter 124), to three-
tenths of one per cent of its paid-up capital.

Corpora-
tions hav-
ing an
establish-
ment out-
side
Québec.

“846. Where a corporation contemplated in section 844
has an establishment situated outside Québec, the tax payable
by that corporation is equal to that part of the tax established
pursuant to section 845 represented by the ratio between the
business carried on in Québec and the aggregate of the business
carried on in Québec and elsewhere, as determined by regulation.

Taxation
year of
less than
359 days.

“847. Where the taxation year of a corporation covers a
period of less than three hundred and fifty-nine days, that corpo-
ration must pay the tax otherwise established in the proportion
that the number of days in its taxation year is to three hundred
and sixty-five.

Minimum
amount of
tax.

“848. In no case can the tax payable by a corporation
other than a corporation exempt pursuant to sections 856 and 857
be less than \$100.

“BOOK III

“COMPUTATION OF PAID-UP CAPITAL

“TITLE I

“CORPORATIONS OTHER THAN BANKS, LOAN
CORPORATIONS OR TRUST CORPORATIONS

Paid-up
capital of a
corpora-
tion.

“849. (1) In this Part, the paid-up capital of a corporation
includes

(a) the paid-up capital stock and any other participating
interest in the nature of capital stock;

(b) the surpluses, provisions and reserves, except those for amortization or depletion and those permitted by Part I to the extent that they were deducted in computing income under that Part;

(c) a debt contracted or assumed by it, represented by a bond, hypothec, income bond, right of pledge or other evidence of indebtedness secured by a property of the corporation;

(d) the loans and advances granted directly or indirectly to the corporation by a shareholder, by a person with whom a shareholder is not dealing at arm's length within the meaning of Part I, or by any other corporation;

(e) any other debt provided it has existed for more than six months.

Debt repaid.

(2) A debt repaid before the end of the taxation year is deemed to be a debt at the end of that year if it is established that the repayment was made as part of a series of loans and repayments in order to unduly reduce the paid-up capital.

Corporation having an interest.

(3) A corporation having an interest in a partnership or in a joint venture must include in computing its paid-up capital the amounts that would be included in computing the paid-up capital of that partnership or joint venture under this section and sections 850 and 851 if that partnership or joint venture were a corporation, in the proportion that its interest in the partnership or joint venture is to the interest of all the persons in the said partnership or joint venture.

Amount not included nor deducted.

However, the corporation shall not include nor deduct in computing its paid-up capital an amount shown in the books and financial statements of the partnership or joint venture resulting from an operation between the partnership or the joint venture and its members.

Deductions in computing paid-up capital

“850. In computing its paid-up capital, a corporation may deduct

(a) the amount of its deficit;

(b) the costs pertaining to the issue of shares or bonds, including discount, provided they were not used to reduce its surplus or its paid-up capital;

(c) any other prescribed amount.

Reduction of paid-up capital.

“851. (1) The paid-up capital of a corporation computed after the application of sections 849 and 850 shall be reduced in the proportion that the aggregate of the value of its investments in shares and bonds of other corporations and the amounts of the

loans and advances to other corporations is to the total of its assets.

Loans and advances to other corporations.

(2) The following are deemed not to be loans and advances to other corporations:

(a) moneys on deposit with another corporation authorized to accept them, and loans granted to such a corporation;

(b) amounts receivable by a subsidiary from a parent corporation whose corporate seat is outside Canada;

(c) amounts receivable by the corporation pursuant to a contract of lease or of a lease of credit.

Amount of the assets of a corporation.

(3) The amount of the assets of a corporation is that shown in the financial statements after deduction of the provisions and reserves for amortization or depletion and that for bad debts provided it was deducted in computing income under Part I, to which is added

(a) any amount having reduced the amount of the assets that must be included in the paid-up capital, and

(b) the amount of the assets of a partnership or joint venture in the proportion that the interest of that corporation in that partnership or joint venture is to the interest of all the persons in the said partnership or joint venture, minus the amount of that interest shown in the financial statements of the corporation.

Amount of the assets of a corporation.

(4) For the purposes of paragraph *b* of subsection 3, a corporation shall not include in computing the amount of its assets any amount shown in the books and financial statements of the partnership or joint venture resulting from an operation between the partnership or joint venture and its members.

Restrictions regarding certain corporations.

“852. The reduction provided for in section 851 does not apply to the computation of the paid-up capital of a corporation trading in securities within the meaning of the Securities Act (Revised Statutes, 1964, chapter 274).

“TITLE II

“BANKS, LOAN CORPORATIONS, TRUST CORPORATIONS

Paid-up capital of a bank.

“853. The paid-up capital of a bank is equal to the aggregate of the following amounts:

(a) the paid-up capital stock;

(b) the reserve required by the Bank of Canada and the other reserves and provisions except those for amortization or depletion and those that are permitted by Part I provided that they were deducted in computing income under that Part;

(c) the undivided profits.

Paid-up capital of a loan corporation or a trust corporation.

“**854.** The paid-up capital of a loan corporation or of a trust corporation is equal to the aggregate of the following amounts:

- (a) the paid-up capital stock;
- (b) the provisions and reserves except those for amortization and depletion and those permitted by Part I provided they were not deducted in computing income under that Part;
- (c) the surplus.

“BOOK IV

“MISCELLANEOUS PROVISIONS

Corporation having an interest in a partnership or joint venture.

“**855.** For the purposes of this Part, a corporation must file the financial statements of a partnership or joint venture in which it has an interest with respect to the fiscal period the end of which coincides with that of the fiscal period of the corporation or, as the case may be, which immediately precedes it.

Corporation exempt from capital tax-restriction.

“**856.** Every tax exempt corporation under sections 712 to 728 or section 730, and every corporation whose property is deemed to be the property of an *inter vivos* trust contemplated in section 639*y*, is exempt from capital tax.

Restriction.

However, a corporation withdrawn by section 181 from the application of section 717 is not exempt from tax.

Restriction.

Furthermore, a corporation that is a charity within the meaning of section 1, or whose property is deemed to be the property of an *inter vivos* trust contemplated in section 639*y*, and that is exempt from tax under the first paragraph, must nevertheless pay the tax on its paid-up capital which pertains to a business carried on by it.

Regulations.

“**857.** The Government may make regulations

(a) exempting, on the conditions prescribed by it, any corporation in the process of winding-up or under sequestration, any inactive corporation, or any corporation incorporated for cultural or agricultural purposes or for drainage or water system purposes;

(b) determining what constitutes an investment;

(c) determining the paid-up capital of a corporation that is not resident in Canada;

(d) prescribing the measures required for the application of this Part.

Application
of sections
732 to 806.

“**858.** Sections 732 to 806 apply, *mutatis mutandis*, to this Part, except where inconsistent.”

(2) This section applies from 1 April 1979, except section 858, where it refers to paragraph *a* of section 755, enacted by this section, in which case it applies from 1 January 1980.

(3) Part IV of the Taxation Act, as it read on 31 March 1979 continues to apply to the corporations liable thereunder and not exempt, for a period of 18 months immediately following the date of the closing of their last fiscal period ended before 1 April 1979, or, failing such a fiscal period, for the period including 31 March 1979 for which tax is exigible under that Part; however,

(a) no tax is payable where the payment of it was otherwise to have been effected after 31 March 1979 by a corporation that has no establishment in Québec after that date;

(b) no tax is payable under Book III or IV where the payment of it was otherwise to have been effected by a corporation after 31 March 1979; and

(c) no rebate or reimbursement of a tax the payment of which was to be effected before 1 April 1979 may be effected in respect of a corporation contemplated in paragraph *a* or *b*.

(4) Notwithstanding sections 845, 847 and 848 enacted by this section, the tax payable by a corporation is equal,

(a) for the taxation year that includes 1 April 1979, to the product obtained by multiplying the paid-up capital computed pursuant to subsection 1 by the rate by which the taxation rate provided therein exceeds the rate applicable to that corporation under Part IV of the Taxation Act, as it read on 31 March 1979, in the proportion that the number of days in that taxation year comprised between 31 March 1979 and the end of that taxation year is to three hundred and sixty-five;

(b) for a taxation year subsequent to that mentioned in paragraph *a* which includes a period in respect of which tax on the capital is exigible under Part IV of the Taxation Act as it read on 31 March 1979, to the aggregate of the following amounts:

(i) the product obtained by multiplying the amount of the paid-up capital computed pursuant to subsection 1 by the rate by which the taxation rate provided therein exceeds the rate applicable to that corporation under Part IV of the Taxation Act as it read on 31 March 1979, in the proportion that the number of days in that taxation year for which tax on the capital is exigible under that part is to three hundred and sixty-five; and

(ii) the product obtained by multiplying the amount of the paid-up capital computed under subsection 1 by the taxation rate provided therein in the proportion that the number of days in

that taxation year for which no tax on the capital is exigible under Part IV of the Taxation Act as it read on 31 March 1979, is to three-hundred and sixty-five.

(5) Any corporation liable under Part IV enacted by this section must pay to the Minister,

(a) not later than 30 September 1979, for the period from 1 April 1979 to 31 December 1979, the aggregate of the following amounts:

(i) the product obtained by multiplying the amount of the paid-up capital computed pursuant to subsection 1 by the rate by which the taxation rate provided therein exceeds the rate applicable to that corporation under Part IV of the Taxation Act as it read on 31 March 1979, in the proportion that the number of months in that period for which tax on the capital is exigible under that Part, is to twelve; and

(ii) the product obtained by multiplying the amount of the paid-up capital computed pursuant to subsection 1 by the taxation rate provided therein, in the proportion that the number of months in that period for which no tax on the capital is exigible under Part IV of the Taxation Act as it read on 31 March 1979, is to twelve;

(b) notwithstanding section 858 where it refers to paragraph *a* of section 755, enacted by this section, not later than the last day of each month subsequent to 31 December 1979 that is included in the period contemplated in subsection 3, an amount equal to one-twelfth of the product obtained by multiplying the amount of the paid-up capital computed pursuant to subsection 1 by the excess computed in paragraph *a*.

For the purposes of this subsection, the paid-up capital is that at the end of the taxation year of the corporation subsequent to 31 March 1979 that is closest to 30 September 1979 and, where the corporation has an establishment situated outside Québec, the aggregate contemplated in paragraph *a* or the amount contemplated in paragraph *b* is equal to that part of that aggregate or, as the case may be, of that amount, represented by the proportion contemplated in section 846 for that taxation year.

(6) For the purposes of subsections 4 and 5, the taxation rate applicable to a corporation under Part IV of the Taxation Act, as it read on 31 March 1979, is deemed equal to one-fifth of one per cent in the absence of such a rate and equal to zero in the case of a corporation exempt pursuant to that Part.

(7) Every corporation from which no tax is exigible under Part IV of the Taxation Act as it read on 31 March 1979 and that is liable under subsection 1, must pay the tax established otherwise for the fiscal period that includes 1 April 1979, in the

proportion that the number of days between 31 March 1979 and the end of that fiscal period is to three hundred and sixty-five.

(8) For the purposes of section 858 where it refers to section 755, the basic provisional account or the estimated tax for a taxation year that includes a month in the period contemplated in subsection 3 is computed as if subsection 1 applied to the whole taxation year.

(9) Section 845 enacted by subsection 1 and subsections 4 and 5 do not apply to a mining corporation for the taxation year including 1 April 1979 where it has not reached the production stage at the end of that year.

The same applies where that corporation has not reached the production stage at the end of the first taxation year subsequent to that referred to in the first paragraph; in that case, it must, not later than the last day of the second month following that subsequent year, pay to the Minister a tax of \$50 for the year.

1972, c. 23,
Part V,
am.

28. (1) Part V of the said act is amended:

1972, c. 23,
s. 872,
replaced.

(a) by replacing section 872 by the following section:

Oil refining
corporations.

“872. Every corporation refining petroleum in Québec shall pay to the Ministre du revenu, in addition to the tax provided for in Part IV, an additional annual tax of one-third of one per cent of the amount of its paid-up capital within the meaning of sections 849 to 852.”;

1972, c. 23,
s. 875a,
replaced.

(b) by replacing section 875a by the following section:

Application
of sections
732 to 806
and 857.

“875a. Sections 732 to 806 and 857 apply *mutatis mutandis* to this Part, except where inconsistent.”

(2) This section applies from 1 April 1979.

1972, c. 23,
Part VI,
am.

29. (1) Part VI of the said act is amended:

1972, c. 23,
s. 876, am.

(a) by replacing paragraph *a* of section 876 by the following paragraph:

“insurance
corporation”;

“(a) “insurance corporation” means any insurance corporation within the meaning assigned by section 1 and includes any association or group of persons carrying on such a business;”;

(b) by replacing paragraph *c* of the said section by the following paragraph:

“carrying
on a business in
Québec”.

“(c) “carrying on a business in Québec” means exercising any of the corporate rights, powers or objects of a corporation therein, owning any property therein or having an establishment therein within the meaning assigned by section 1.”;

1972, c. 23,
s. 879,
repealed.

1972, c. 23,
s. 883,
repealed.

1972, c. 23,
ss. 884 and
884a,
replaced.

Application
of section
857.

Application
of sections
732 to
806.

(c) by repealing section 879;

(d) by repealing section 883;

(e) by replacing sections 884 and 884a by the following sections:

“884. Section 857 applies, *mutatis mutandis*, to this Part.

“884a. Sections 732 to 806 apply, *mutatis mutandis*, to this Part, except where inconsistent.”

(2) This section applies from 1 April 1979. However, section 883 of the Taxation Act, as it read on 31 March 1979, continues to apply to any insurance corporation until the end of the taxation year in progress on 1 April 1979.

1972, c. 23,
s. 885, am.

30. (1) Section 885 of the said act is amended by replacing paragraph c by the following paragraph:

“corporation”;

“(c) “corporation” has the meaning assigned by section 1;”.

(2) This section applies from 1 April 1979.

1972, c. 23,
s. 897b,
am.

31. (1) Section 897b of the said act, enacted by section 77 of chapter 37 of the statutes of 1978, is amended by replacing the first and second paragraphs by the following paragraph:

Distribution of capital of a trust.

“897b. Every distribution of capital of a trust, other than a trust contemplated in paragraphs d to h and j of section 730, is deemed to be a gift, except a distribution of capital to a beneficiary where the latter was liable for succession duties respecting the property of the trust so distributed or any property substituted therefor.”

(2) This section applies from 31 May 1979.

1972, c. 23,
ss. 897d-
897c,
added.

32. (1) The said act is amended by inserting after section 897c the following sections:

Deduction from gift tax.

“897d. (1) Where a distribution of capital is made to a beneficiary of a trust and that distribution is deemed to be a gift within the meaning of section 897b, there may be deducted from the tax otherwise payable the lesser of that tax and the allowable tax if that distribution takes place within ten years following the date on which the trust was created.

Restriction.

Where the distribution contemplated in the preceding paragraph is made between the tenth and twenty-first years following the date on which the trust was created, the deduction provided for therein must be reduced by 10 per cent for each year or part

of a year between the tenth year and the time when the distribution is made.

Allowable
tax.

(2) For the purposes of subsection 1, the allowable tax is the tax that has been paid pursuant to the creation of the trust or pursuant to a subsequent contribution of capital to the trust made within ten years after its creation, less any amount already deducted under the said subsection.

Capital of
a trust.

“897e. For the purposes of sections 897*b* to 897*d*, the capital of a trust does not include its income, within the meaning of Part I, which has been accumulated or capitalized.”

(2) This section applies from 31 May 1979.

1972, c. 23,
s. 907, am.

33. (1) Section 907 of the said act, amended by section 48 of chapter 18 of the statutes of 1974 and by section 215 of chapter 26 of the statutes of 1978, is again amended by inserting at the end the following paragraph:

“(i) a renunciation made, in favour of the spouse of the deceased person, by a beneficiary of the succession of the said person.”

(2) This section applies to every succession opened after 18 April 1978.

1972, c. 24,
s. 31,
replaced.

34. (1) Section 31 of the Act respecting the application of the Taxation Act (1972, chapter 24), amended by section 141 of chapter 17 of the statutes of 1973 and replaced by section 116 of chapter 26 of the statutes of 1977, is again replaced by the following section:

Application
of section
30 in the
case of
transfer to
a trans-
feree.

“31. Section 30 does not apply when either section 366, 367*a* or 370 of the Taxation Act applies in respect of the disposition, by a taxpayer, of depreciable property of a prescribed class to a transferee referred to in that section 366, 367*a* or 370, as the case may be. However, when the transferee subsequently disposes of such property, section 30 applies as if the transferee had acquired it before 1972 and had owned it without interruption from 31 December 1971 until the time of the subsequent disposition.”

(2) This section applies in respect of the disposition of property after 1978.

1978, c. 37,
s. 6, am.

35. (1) Section 6 of the Succession Duty Act (1978, chapter 37) is amended by replacing the second paragraph by the following paragraph:

Restriction. “Any property in respect of which the right of a beneficiary arises on the death of an institute or of a beneficiary of the revenue, as the case may be, is deemed to be transmitted to that beneficiary owing to such death, except where that beneficiary is an institute or a beneficiary of the revenue who has the same degree of filiation, in relation to the person disposing, as the deceased beneficiary.”

(2) This section applies from 19 April 1978.

1978, c. 37,
s. 67,
replaced. **36.** (1) Section 67 of the said act is replaced by the following section:

Regulations. **“67.** The Government may make regulations

(a) prescribing the conditions that a corporation must fulfil to qualify as a private corporation;

(b) discharging the Minister from the obligation of issuing a disposal permit with respect to certain property, and validating the transfer of such property;

(c) generally prescribing the measures required for the application of this act.”

(2) This section applies from 31 May 1979.

1976, c. 23,
s. 31, am. **37.** Section 31 of the Land Transfer Duties Act (1976, chapter 23), amended by section 4 of chapter 24 of the statutes of 1976, is again amended by replacing that part which precedes paragraph *a* of subsection 1 by the following:

Miscellaneous: **“31.** (1) Payment of the duties shall be deferred in the case where the transferee declares that the land subject to the transfer is not situated, in whole or in part, in a reserved area or in an agricultural zone established in accordance with the Act to preserve agricultural land (1978, chapter 10) and that he has acquired the whole of the land for one of the following purposes, provided that the area and value of the land are reasonable, all things considered:”

1976, c. 23,
s. 37*a*,
added. **38.** (1) The said act is amended by inserting after section 37 the following section:

New assessment cancelling the obligation to tax duties. **“37*a*.** Notwithstanding section 37, where a transferee has obtained the deferment, under section 31, of the payment of the duties relating to the transfer of land, whether because that land was not, at the time of the transfer, situated in whole or in part in a reserved area or in an agricultural zone established in accordance with the Act to preserve agricultural land, or because, at the date of expiry of the delay provided for by that section 31, the

land is situated in whole or in part in such an area or in such a zone and the transferee has been unable, owing to the application of the Act to preserve agricultural land, to fulfil the conditions provided for by that section 31 within the delay provided for therein, the transferee is deemed to have fulfilled these conditions within the delay provided for and the Minister shall, upon the application of the transferee, make a new assessment cancelling the obligation to pay the duties in question.”

(2) This section has effect from 9 November 1978.

R.S., 1964,
c. 81,
repealed.

39. The Public Officers' Fees Percentage Act (Revised Statutes, 1964, chapter 81) is repealed.

Coming
into force.

40. This act comes into force on the day of its sanction.